

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, | : | |
| | : | |
| Petitioner, | : | |
| | : | |
| v. | : | Civil Action No. |
| | : | |
| DARNETT MCDANIEL, | : | |
| | : | |
| Respondent. | : | Electronically Filed |
| | : | |

PETITION TO ENFORCE IRS SUMMONS

Petitioner the United States of America, by its undersigned attorney, files the following Petition to Enforce Internal Revenue Service ("IRS") Summons against Respondent Darnett McDaniel:

1. This proceeding is brought pursuant to 26 U.S.C. §§ 7402(b) and 7604(a) to judicially enforce an IRS summons.
2. The Court has subject matter jurisdiction pursuant to 26 U.S.C. §§ 7402(b) and 7604(a), and 28 U.S.C. §§ 1340 and 1345.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1396 because the summoned person resides or may be found within the boundaries of this district.
4. Petitioner is the United States of America.
5. Martha K. Steen is a duly commissioned Revenue Officer employed in the Small Business/Self Employed Operating Division, Area 3, of the IRS in Pittsburgh, Pennsylvania. She is authorized to issue IRS summonses under 26 U.S.C. § 7602, and 26 C.F.R. § 301.7602-1.
6. Revenue Officer Steen is conducting an investigation for the purpose of collecting the assessed, unpaid federal income tax liability of Darnett McDaniel ("McDaniel" or

“Taxpayer”) for the years ending December 31, 2006, December 31, 2007, and December 31, 2008. In addition, Revenue Officer Steen is investigating whether Taxpayer was required to file income tax returns for the years ending December 31, 2009 and December 31, 2010 and, if so, she seeks to obtain such returns from Taxpayer.

7. Taxpayer is a resident of the Commonwealth of Pennsylvania, having her current address at 531 Sandrae Dr. Mt. Lebanon, Pennsylvania 15243, within the jurisdiction of this Court.

8. Pursuant to the above-described investigation of Taxpayer's current financial ability to pay her outstanding federal income tax liabilities, on March 2, 2012, under 26 U.S.C. § 7602, Revenue Officer Steen issued a summons to her. A true and correct copy of the summons is attached hereto as Exhibit 1 to Revenue Officer Steen's declaration that is filed with this petition. The summons directed Taxpayer to appear at Revenue Officer Steen's office on March 29, 2012, at 10:30 a.m. to give testimony and to bring with her “[a]ll documents and records . . . regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. These records and documents include . . . all bank statements, checkbooks, canceled checks, savings account passbooks, . . . certificates of deposit for the period: From 10/03/2011 To 02/29/2012.” (Steen Decl., Ex. 1, ¶ 5). The summons also seeks other documents, including vehicle registration certificates, deeds, stocks and bonds, notes, judgments, accounts receivable information, and insurance policies. (*Id.*)

9. In accordance with 26 U.S.C. § 7603, on March 2, 2012, Revenue Officer Steen delivered an attested copy of the IRS summons to Taxpayer by leaving it affixed to Taxpayer's door at her residence, then located at 169 Haymaker Road, Monroeville, Pennsylvania 15146, as indicated on the certificate of service that is attached to the summons. (*See* Steen Decl., Ex. 1, ¶ 6).

10. On March 29, 2012, Taxpayer did not comply with the March 2, 2012 summons issued to her: she neither appeared nor produced any documents. Taxpayer's refusal to comply with the summons continues to date. (*See id.*, ¶ 7).

11. The Internal Revenue summons seeks relevant information about Taxpayer's current financial condition to pay her assessed, unpaid income tax liability for the years ending December 31, 2006, December 31, 2007, and December 31, 2008. The testimony and documents sought may shed light on Taxpayer's ability to pay those federal income tax liabilities. The summons also seeks relevant information about whether Taxpayer was required to file income tax returns for the years ending December 31, 2009 and December 31, 2010, and the testimony and documents may shed light on Taxpayer's ability to pay any federal income tax liabilities for those years.

12. The testimony, and the books, papers, records, or other data sought by the summons are not already in the possession of the IRS.

13. As of the date of this petition, no "Justice Department referral" is in effect with respect to the taxpayer. More specifically, no recommendation has been made by the IRS to the Department of Justice for a grand jury investigation or criminal prosecution of Taxpayer for the

periods under investigation. Moreover, no request has been made under 26 U.S.C.

§ 6103(h)(B)(3) for the disclosure of any return or return information in connection with a grand jury investigation or potential or pending criminal investigation of Taxpayer. (*See* 26 C.F.R. § 301.7602-1(c)(2)(ii)).

14. All administrative procedural steps required by the Internal Revenue Code of 1986 (26 U.S.C.) (as amended) for enforcement of the summons have been followed.

WHEREFORE, petitioner respectfully prays for the following relief:

A. That the Court issue an order directing respondent Taxpayer to show cause, if any, why she should not comply with and obey the aforementioned summons and each and every requirement thereof;

B. That the Court include in its order, referred to above, authorization for Revenue Officer Steen or any other IRS employee to serve respondent Taxpayer with that order, along with a copy of this petition and the declaration of Revenue Officer Steen;

C. That the Court enter a separate order directing respondent Taxpayer to obey the aforementioned summons, and each and every requirement thereof by ordering his appearance for testimony and his production of the books, papers, records, and other documents as required and called for by the terms of the summons, before Revenue Officer Steen or any other proper officer or employee of the IRS, at such time and place as may be fixed by Revenue Officer Steen, or any other proper officer or employee of the IRS;

D. That the Court award the United States its costs incurred in maintaining this action;

E. That the Court grant such other relief as is it deems just and proper; and

F. The United States also requests that this instant civil action not be designated for placement into this judicial district's Alternative Dispute Resolution program (*see* LCvR 16.2) until, at least, Taxpayer appears before this Court at the scheduled show cause hearing due to the summary nature of this proceeding, *see United States v. Gippetti*, 248 Fed. Appx. 382, 385 (3d Cir. 2007) and, among other reasons, the likelihood of Taxpayer's compliance after she faces and/or makes an in-court appearance.

Respectfully submitted,

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Dated: September 30, 2013